

REMARKS

In the Office Action mailed on July 13, 2006, all the pending claims 1-4, 6-8 and 29-44 were rejected. All of the claims are believed to be allowable in their current state, and their reconsideration is requested.

Improper Finality of the Office Action

Applicants note that the Examiner appears to have granted the request to remove the finality of the previous Office Action. However, the Examiner made the current Office Action final. This finality appears to be *improper*. In particular, prior to the current Office Action, the application was on Appeal. A panel decision reopening prosecution issued on March 29, 2006. Accordingly, when prosecution is to be reopened, there are very limited circumstances in which the Examiner can make the Office Action final.

In particular, MPEP §1207.04 indicates that an Office Action can be made final upon reopening of prosecution if the new ground of rejection was (A) necessitated by amendment, or (B) based on information presented in an Information Disclosure Statement under 37 C.F.R. § 1.97(c) where no statement under 37 C.F.R. § 1.97(e) was filed. Neither of those conditions has been met in the present case. In particular, no IDS was filed and no amendment was before the Examiner.

Accordingly, Applicants submit that the finality of the current Office Action is improper, and request withdrawal of the finality.

Request for Integral Translation of Prior Art Reference

Applicants note that all of the rejections made in the current Office Action are at least partially based upon a Japanese reference (JP 2001-196241, hereinafter “Kurita”). Because references must be considered as a *whole* for what they teach, Applicants are simply unable at the present time to determine whether Kurita does or does not teach the

subject matter of the invention, or whether the reference, in fact, teaches away from the combination proposed by the Examiner. Accordingly, Applicants formally request an integral translation of the Kurita reference so that they can be given a fair opportunity to respond to the rejections.

Rejections Under 35 U.S.C. § 102

Claim 33 was rejected under 35 U.S.C. § 102 in view of Kurita. Claim 33 recites an insulation system that includes “a plurality of *alternating layers* of polymeric and non-polymeric materials” (emphasis added).

As best understood, Kurita fails to teach *alternating layers* of polymeric and non-polymeric materials. The Examiner appears to refer to FIG. 1 from Kurita, taken in conjunction with the English translation of the abstract. Applicants submit that one skilled in the art, given only these passages and figure, would conclude that the insulation layer 5 of Kurita includes *one* polypropylene film layer 6 and *one* kraft paper layer 7. The term “alternating layers” in claim 33, on the other hand, implies that more than simply two layers must be included in the recited structure. As properly interpreted in view of the specification of the present application, multiple such layers must be included. In short, it is simply impossible for only two layers to be considered as “alternating.”

Accordingly, Kurita cannot anticipate claim 33 without additional layers of polypropylene film and kraft paper that would be disposed in alternating fashion. Reconsideration and allowance of claim 33 on this basis is requested.

Rejections Under 35 U.S.C. § 103

All of the pending claims 1-4, 6-8 and 29-44 were also rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 4,095,205 to Schroeder et al. (hereinafter “Schroeder”) in view of Kurita. Applicants note that of these,

claims 1, 29, 33, 38 and 42 are independent. All these claims are believed to be clearly allowable over the cited reference for the reasons summarized below.

Applicants first note that Schroeder was used by the Examiner as a primary reference. Schroeder was cited for its teaching of multiple layers of insulating material in an insulating unit. The insulating structure taught by Schroeder is, in fact, best illustrated in FIG. 2 and labeled with reference numeral 30. While Schroeder does teach multiple layers of polyethylene terephthalate film, this film is bounded on either side by aromatic polyamide fiber papers.

Applicants note first that none of the layers of the Schroeder insulating structure is made of a non-polymeric material. That is, both the polyethylene terephthalate films and the polyamide fiber papers are apparently polymeric materials.

Accordingly, it is presumed that the combination proposed by the Examiner would replace at least these paper layers with the kraft paper layer of Kurita. However, even if this were the case, the resulting structure would not read on that recited in each of the independent claims. In particular, all of the independent claims require polymeric and non-polymeric or paper layers. Applicants note that claim 33, as discussed above, recites the subject matter somewhat differently, relying upon “alternating layers” of polymeric and non-polymeric materials. Moreover, in somewhat similar language, the claims, excepting claim 33, further recite that these units are positioned or stacked so as to locate or dispose the non-polymeric or paper material in each unit adjacent to the polymeric material in another insulating unit. That is, the paper or non-polymeric material is alternated with the polymeric material.

The combination proposed by the Examiner would not result in such structures. Rather, it would appear that, although the Examiner is not specific on this point, the paper layers of Schroeder would be replaced by the kraft paper layer of Kurita. Neither reference, however, teaches alternating disposition of these layers. That is, reading Kurita, one skilled in the art would not be prompted to provide multiple units of alternating materials, as noted above with respect to claim 33. Kurita simply teaches a single polypropylene film layer 6 and a single kraft paper layer 7. Similarly, nothing in either reference would prompt one skilled in the art to replace one or more of the polyethylene terephthalate film layers 42 of Schroeder with a kraft paper layer from Kurita. This replacement is simply not taught by nor is it consistent with the teachings of either reference.

Accordingly, Applicants submit that a *prima facie* case of obviousness has not been made out, insomuch as even in combination, the references would not read on at least independent claims 1, 29, 33, 38 and 42. Moreover, all of the dependent claims are believed to be equally patentable by virtue of their dependency from an allowable base claim and for the subject matter they separately recite.

Reconsideration and allowance of all pending claims are respectfully requested.

Conclusion

In view of the remarks and amendments set forth above, Applicants respectfully request allowance of the pending claims. If the Examiner believes that a telephonic interview will help speed this application toward issuance, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,

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